



February 9, 2001

HOUSE BILL No. 1855

DIGEST OF HB 1855 (Updated February 8, 2001 1:07 PM - DI 105)

Citations Affected: IC 31-30; IC 35-42.

Synopsis: Murder and reckless homicide. Provides that a person who kills another human being while committing or attempting to commit felony battery upon a child less than 2 years of age commits felony murder. Enhances the penalty for reckless homicide from a Class C felony to a Class B felony if the reckless conduct involves shaking a child less than 2 years of age.

Effective: July 1, 2001.

Burton, Dvorak, Mellinger, Ayres

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.
February 8, 2001, amended, reported — Do Pass.

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HB 1855—LS 6328/DI 103+



February 9, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1855

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-30-3-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. Except for those
3 cases in which the juvenile court has no jurisdiction in accordance with
4 IC 31-30-1-4, the court shall, upon motion of the prosecuting attorney
5 and after full investigation and hearing, waive jurisdiction if it finds
6 that:

7 (1) the child is charged with an act that, if committed by an adult,
8 would be:

9 (A) a Class A or Class B felony, except a felony defined by
10 IC 35-48-4;

11 (B) involuntary manslaughter as a Class C felony under
12 IC 35-42-1-4; or

13 (C) reckless homicide as a **Class B or** Class C felony under
14 IC 35-42-1-5;

15 (2) there is probable cause to believe that the child has committed
16 the act; and

17 (3) the child was at least sixteen (16) years of age when the act

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1 charged was allegedly committed;
 2 unless it would be in the best interests of the child and of the safety and
 3 welfare of the community for the child to remain within the juvenile
 4 justice system.

5 SECTION 2. IC 35-42-1-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person who:

- 7 (1) knowingly or intentionally kills another human being;
 8 (2) kills another human being while committing or attempting to
 9 commit:

10 (A) arson;

11 (B) **felony battery under IC 35-42-2-1(a)(2),**
 12 **IC 35-42-2-1(a)(3), or IC 35-42-2-1(a)(4), or aggravated**
 13 **battery under IC 35-42-2-1.5 against a child less than two**
 14 **(2) years of age;**

15 (C) burglary;

16 (D) child molesting;

17 (E) consumer product tampering;

18 (F) criminal deviate conduct;

19 (G) kidnapping;

20 (H) rape;

21 (I) robbery; or

22 (J) carjacking;

- 23 (3) kills another human being while committing or attempting to
 24 commit:

25 (A) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

26 (B) dealing in a schedule I, II, or III controlled substance
 27 (IC 35-48-4-2);

28 (C) dealing in a schedule IV controlled substance
 29 (IC 35-48-4-3); or

30 (D) dealing in a schedule V controlled substance; or

- 31 (4) knowingly or intentionally kills a fetus that has attained
 32 viability (as defined in IC 16-18-2-365);

33 commits murder, a felony.

34 SECTION 3. IC 35-42-1-5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who
 36 recklessly kills another human being commits reckless homicide, a
 37 Class C felony.

38 (b) **A person who recklessly kills a child less than two (2) years**
 39 **of age by angry and vigorous shaking commits reckless homicide,**
 40 **a Class B felony.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1855, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-30-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. Except for those cases in which the juvenile court has no jurisdiction in accordance with IC 31-30-1-4, the court shall, upon motion of the prosecuting attorney and after full investigation and hearing, waive jurisdiction if it finds that:

(1) the child is charged with an act that, if committed by an adult, would be:

(A) a Class A or Class B felony, except a felony defined by IC 35-48-4;

(B) involuntary manslaughter as a Class C felony under IC 35-42-1-4; or

(C) reckless homicide as a **Class B or** Class C felony under IC 35-42-1-5;

(2) there is probable cause to believe that the child has committed the act; and

(3) the child was at least sixteen (16) years of age when the act charged was allegedly committed;

unless it would be in the best interests of the child and of the safety and welfare of the community for the child to remain within the juvenile justice system."

Page 1, line 10, delete "fourteen (14)" and insert "**two (2)**".

Page 2, line 17, delete "fourteen (14)" and insert "**two (2)**".

Page 2, line 19, delete ". The offense is:" and insert ", **a Class B felony**".

Page 2, delete lines 20 through 23.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1855 as introduced.)

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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